



*Kentucky's Affordable Prepaid Tuition*

---

April 24, 2006

Dear KAPT Purchaser:

On April 14, Franklin Circuit Court Judge Roger Crittenden issued a ruling that the 2005 state budget language requiring the transfer of \$13.7 million from the KAPT Program Fund to the state's General Fund was unconstitutional. This means the \$13.7 million transferred to KAPT from the Unclaimed Property Fund in December 2004 will remain in the KAPT Program Fund.

Further, the ruling affirmed that the repeal of KRS 393.015, which provided the backing of the Unclaimed Property Fund for KAPT tuition contract obligations, could not apply to current KAPT contract holders and stated that the Commonwealth must fulfill the tuition payment obligation of all current KAPT contract holders.

Following is a summary of the history of the lawsuit:

- On December 1, 2004, the KAPT Board of Directors approved a transfer of \$13.7 million from the state Unclaimed Property Fund to KAPT to avoid a future benefit deficit projected in a 2004 actuarial study.
- In March 2005, the General Assembly passed the state budget bill (House Bill 267), which required KAPT to pay \$13.7 million to the General Fund by June 30, 2005, and repealed KRS 393.015, which said "Seventy-five percent of the balance of the abandoned property funds shall be available for support of the Commonwealth postsecondary education prepaid tuition trust fund. Transfers from the abandoned property fund to the trust fund are authorized in order to meet any unfunded liability as determined by the board."
- On March 30, 2005, the Attorney General's Office filed a lawsuit seeking a declaration of rights and a permanent injunction to prevent the KAPT provisions in the state budget bill from being carried out.
- The lawsuit named as defendants/respondents the members of the KAPT board (a non-corporate entity), in its official capacity; KHEAA, as a corporate entity; and the Secretary of the Finance and Administration Cabinet. These three respondents were named because they would be the entities involved in complying with House Bill 267.
- On April 7, 2005, the Judge granted a Motion for a Temporary Injunction filed by the Attorney General to prevent the transfer of the \$13.7 million to the General Fund from taking place pending the outcome of the lawsuit.
- Judge Crittenden heard oral arguments on November 16, 2005.

Administered by:



Kentucky Higher Education Assistance Authority  
P.O. Box 798 • Frankfort, KY 40602-0798  
1-888-919-KAPT • [www.getKAPT.com](http://www.getKAPT.com)

KHEAA Promotes Equal Opportunity M/F/D

- Judge Crittenden issued his ruling on April 14, 2006. The ruling is available in the "News" section at [www.getKAPT.com](http://www.getKAPT.com). It is not known at this time if any appeals will be filed in response to the ruling.

In addition, the 2006 state budget includes language that says "all prepaid tuition contracts in existence on the effective date of this Act shall be supported by the full faith and credit of the Commonwealth." (The budget also states that any KAPT contracts entered into after the effective date of the budget must include actuarially sound premiums, and the Commonwealth shall have no obligation to support KAPT contracts entered into after the effective date of the budget if a shortfall occurs.)

We hope this ruling alleviates any concerns you have about the future of your KAPT contact(s). If you have any questions about your account(s), please call 1-888-919-KAPT and press option 2.

Sincerely,

A handwritten signature in cursive script that reads "Jim Jackson".

Dr. Jim A. Jackson  
Chairman  
KAPT Board of Directors